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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,621	12/12/2001	Eric J. Horvitz	MS164170.2	5221

7590 11/30/2005  
Himanshu S. Amin  
24th Floor, National City Center  
1900 East 9th Street  
Cleveland, OH 44114

EXAMINER

SHAW, PELING ANDY

ART UNIT PAPER NUMBER

2144

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/021,621

Applicant(s)

HORVITZ ET AL.

Examiner

Peling A. Shaw

Art Unit

2144

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-85.  
Claim(s) withdrawn from consideration: none.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 09/23/2005  
13. ☐ Other: \_\_\_\_\_

  
**DAVID WILEY**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

In response to statements on rejection of claims 23-36 and 34-39 under 35 U.S.C. § 102(b), applicant alleges that Losee's estimate of loss due to reject message, i.e. not review or examine a message, fails to include a factor for time particularly in claim 23. There is not time element in claim 23. The reference of "current time" in claim 23 is just to say not review now. If it will be reviewed or later is not cited in the claim.

In response to statements on rejection of claims 1-10 and 40 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail. Cooper also shows applying voice user interface technique in voice mail.

In response to statements on rejection of claims 1 and 11 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.

In response to statements on rejection of claims 1, 12-13 and 19-22 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.

In response to statements on rejection of claims 1 and 14 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.

In response to statements on rejection of claims 1 and 15-18 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.

In response to statements on rejection of claims 27-33 are rejected under 35 U.S.C. § 103(a), the statement is based upon the statement of its depending claim, i.e. claim 23, which is addressed above.

In response to statements on rejection of claims 41-54 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.

In response to statements on rejection of claims 55-85 are rejected under 35 U.S.C. § 103(a), Badt shows (column 4, line 40-600 assigning priority to a voice mail by using a voice recognition application, i.e. inference on the acoustic properties of voice mail.